



**CITY OF COLLEGE PARK ADVISORY PLANNING COMMISSION**  
**4500 KNOX ROAD COLLEGE PARK, MARYLAND 20740**  
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***ADVISORY PLANNING COMMISSION***  
***MINUTES OF MEETING***  
***October 15, 2009 – 7:30 P.M.***

**PRESENT:** Advisory Planning Commission – Robert Day, Lawrence Bleau, Charles Smolka, and Timothy Dennée; Planning Staff – Terry Schum, Elisa Vitale, Dorothy Friedman and Theresheia Williams; Attorney – Susan T. Ford

**I. Call to Order:** Robert Day called the meeting to order at 6:35 p.m.

**II. Approval of Minutes:**

The September 3, 2009 minutes should be amended to reflect the following change:

- Page 4 – paragraph 11 should read “Lawrence Bleau asked if the current percentage of lot coverage, 30.2%, includes the current stoop?”

Lawrence Bleau moved to accept the minutes of September 3, 2009 as amended. Charles Smolka seconded. Motion carried 4-0-0.

**III. Amendments to Agenda:** There were no Amendments to the Agenda.

**IV. Public Remarks on Non-Agenda Items:** There were no Public Remarks on Non-Agenda Items.

**V. Public Hearing – Fence Ordinance**

<b>CE0-2009-02:</b>	<b>Variance to construct a 4' fence in the front yard</b>
<b><u>Applicant:</u></b>	<b>Lesley Franc</b>
<b><u>Location:</u></b>	<b>5115 Kennebunk Terrace</b>

Robert Day explained the hearing procedures and placed witnesses under oath. Elisa Vitale summarized the staff report. The applicant is requesting a waiver of the requirements of City Code §87-23, paragraph B to permit the construction of a 4-foot vinyl picket fence in the front yard. The subject property is located in the Hollywood subdivision. The subject property is located in a single-family residential area, with one- and two-story dwellings. The subject property is located on a cul-de-sac and is irregular in shape. The front property line, which follows the curve of the cul-de-sac, measures 51.03 feet, the eastern side property line measures 138.75 feet, the western side property line measures 130.94 feet, and the rear property line measures 72.43 feet. The total area of the property is 7,774 square feet. The property is improved with a one-story single-family home, driveway and shed. The structure and subdivision dates to 1952. The City's fence ordinance allows for the reconstruction or replacement in-kind of existing fences in the front yard. The planter box and shrubs on this property would count as a fence because they are more than 4-feet in height. There was an additional survey conducted by the adjoining neighbor, and there is a question as to whether the planter box and shrubs are located on the adjoining neighbor's property. The shrubs and planter box not extend

the full length of the side property line so the applicant is requesting a waiver for the entire front yard. The front and rear yards are fenced with a 4-foot chain link fence along the eastern and southern property lines. The rear yard along the western property line was fenced with a chain link fence; however, the applicant has replaced the 4-foot chain link fence with a 6-foot vinyl fence. The driveways for the subject property and the adjoining property at 5113 Kennebunk Terrace are in close proximity to one another and are divided by the planter box and shrubs. The property at 5113 has a gravel driveway, and the subject property has a concrete driveway. The North College Park Citizens Association Variance Committee reviewed the variance request and voted unanimously that there was no opposition to the requested waiver of the City's fence ordinance requirement. Staff recommends denial of the requested waiver of the requirements of City Code §87-23.B because the application fails to meet Criteria 1 and 2.

Elisa Vitale submitted the staff report and Exhibits 1-6 into the record. Commissioners accepted unanimously.

Lesley Franc, applicant, testified that she wanted a living hedge, but now it is impossible. Her shrubs and trees were planted more than fifteen years ago and the planter box was just framing. Ms. Franc stated that she returned home one day back in July and discovered that a large amount of her trees and shrubs had been sprayed with weed killer and hacked off and were lying over the street and in the yard of the property next door. She stated that the adjoining neighbor at 5113 Kennebunk Terrace told her that she only cut back the trees and shrubs that were hanging over onto her property. She also stated that the framing was built several years ago, and it was done according to a previous survey when she bought the property. She stated that the shrubs have been damaged and what's left now cannot be maintained. Everything at the bottom of the shrubs is dead and has to be removed because they won't survive. She stated that in order for the landscapers to remove the damaged shrubs, they have to grind up the stumps, which cannot be done with the existing framing there. The framing has to be removed because it has metal pins in it. She stated that the gravel from the adjoining property at 5113 Kennebunk Terrace has damaged her lawn mower twice when she cuts the grass on her property. The applicant submitted the following exhibits: photographs showing proximity of other driveways on the street, which was entered into the record as Exhibits 7A-7Q and a letter from Behnke Nurseries Co. stating their assessment of how the shrubs and plants were damaged, which was entered as Exhibit 8.

Lawrence Bleau asked if there is anything else that is extraordinary or unusual about the property?

Lesley Franc stated no.

Lawrence Bleau asked what would be the hardship if the variance was not granted?

Lesley Franc stated that she will not be rebuilding the planter box, so there will not be any framing for the gravel driveway next door. The street sits higher, so water that comes from the back yard washes the gravel from the neighbor's driveway into her yard. She has replaced her lawn mower twice because of damage from the gravel when she

cuts the grass on her property. She also stated that she has had trouble with vehicles trying to cut through her property.

Beth Debosky, 5113 Kennebunk Terrace, testified that she has lived next to the applicant for five years. She stated that when she moved in five years ago, she asked the applicant if she could trim back the bushes that were hanging over into her yard. The applicant stated that she had no problem with the bushes being trimmed. In 2007, the applicant cut a tree down on her property without permission and accused her of having gravel in the applicant's driveway. Ms. Debosky stated that she told the applicant she could get a survey done and if it showed that part of the gravel driveway was on her property, she would remove the gravel. No survey was ever done, so Ms. Debosky assumed that the planter box was on property line. It has been four years since she trimmed any of the greenery along the planter box. When the applicant was putting up the six-foot fence, they both had a survey done. Ms. Debosky's surveyor found that the two corner markers were correct, but the middle marker was off by 4 or 5 inches. When the fence was constructed it was put right on top of the property line and one stake was put on top of the marker that was in dispute with the surveyors markers. When the applicant had the six-foot fence constructed, Ms. Debosky had a recertification of her survey done, which showed the fence was encroaching on her property. Ms. Debosky feels that the proposed fence would present a safety issue because children play in the cul-de-sac and the fence would block her view while exiting her driveway. Ms. Debosky submitted photographs showing the bushes that were trimmed, the stump where the applicant cut down a tree on her property and the survey pins, which were entered into the record as Exhibits 9A-9N.

Timothy Dennée asked if she has a copy of her survey?

Beth Debosky stated yes, and she also has a copy of the recertification that shows the encroachment, which she submitted into the record. It was entered as Exhibit 10.

Robert Day asked if the fence was constructed all the way to the street, would it be in the City's right-of-way?

Elisa Vitale stated that it would be on the applicant's property as show in Exhibit 2.

Timothy Dennée asked if a permit is required to put in planting that would grow into a hedge?

Susan Ford, attorney, stated that according to the Fence Ordinance Section 87-23(a)(i), any shrub/hedge or natural growth greater than 4-feet in height is considered a fence and would need a permit.

Lesley Franc submitted a photo showing the trees in the rear of the property that had been removed. It was entered into the record as Exhibit 11.

Commissioners reviewed the criteria that need to be met before the variance can be granted and determined that:

1. The property does not have an extraordinary condition that supports the appeal request. Adjoining driveways are not uncommon in the neighborhood.
2. Denial of the variance would not result in a peculiar and unusual practical difficulty to the applicant as the existing planter box could be maintained, methods other than a fence could be used to keep gravel from the neighbor's property off the applicant's property, or the portions of the hedge on the applicant's property over 4 feet in height could be replaced pursuant to the terms of §87-23(F) without a variance.
3. The APC concludes that the construction of a 4-foot picket fence in the front yard will not impair the intent, purpose or integrity of any applicable County General Plan or County Master Plan. Fences in the front yard are characteristic of the neighborhood and picket would be an upgrade from chain link, which is found throughout the neighborhood.
4. The appeal is consistent with the design guidelines adopted for the historic district, if applicable.
5. The proposed fence will not block visibility to the property.
6. The proposed fence is a 4-foot picket fence, which incorporates openness and visibility.
7. The proposed fence, a 4-foot picket fence, is consistent in setback with other fences in the neighborhood. There is an existing 4-foot chain link fence in the side (east) yard of the subject property in front of the house.

Lawrence Bleau moved to deny variance CEO-2009-02 because the request does not meet the seven criteria for granting the variance for the reasons stated above. Robert Day seconded. Motion carried 3-0-1, with Timothy Dennée abstaining.

### **Public Hearings – Zoning Applications**

<b>CPV-2009-10:</b>	<b>Variance to construct a 6' x 20' covered front porch</b>
<b><u>Applicant:</u></b>	<b>Fidel &amp; Regina Martin</b>
<b><u>Location:</u></b>	<b>4808 Erskine Road</b>

Robert Day explained the hearing procedures and placed witnesses under oath. Elisa Vitale summarized the staff report. The applicants are requesting a variance of 10-feet from the required 25-foot front yard setback to construct a two-story, 6-foot by 20-foot long covered front porch. The subject property is located in Elmore Power's subdivision, lot, 12, block 3 in the Calvert Hills neighborhood. The property is irregular in shape. The rear property line does not intersect the side property line at a 90-degree angle. The subject property has an area of 5,774 square feet. The front property line measures 50 feet, the rear property line measures 50.22 feet, the eastern side property line measures 113.11 feet, and the western side property line measures 117.85 feet. The property is improved with a two-story single-family home and a driveway at the rear of the property.

The surrounding neighborhood is zoned R-55 for single-family residential. The subject property is located directly across from Calvert Neighborhood Park. The house predates zoning and was constructed in 1920, the subdivision dates to 1906. When the house was originally built, it was actually sited just 21-feet behind the front property line. The existing 6-foot front porch is sited 15-feet behind the front property line, encroaching a total of 10 feet into the required 25-foot front yard setback. The applicants would be increasing the encroachment; they are looking to extend the width of the porch to cover the full front of the house. The applicants have indicated that the porch is in poor repair. The applicant anticipates applying for building permits to extend the existing driveway and construct a 24-foot by 16-foot wide addition that will contain a garage and bedroom. The adjoining property owners, Bill and Paolin Hatch, at 4806 Erskine Road indicated that they did not have any objection to the requested variance. Staff recommends that the requested variance be granted to allow construction of a two-story, 6-foot deep by 20-foot long covered front porch.

Elisa Vitale submitted the staff report and Exhibits 1-6 into the record. Commissioners accepted unanimously.

Fidel and Regina Martin, applicants, testified that the porch is in poor condition and they tried to repair it, but termites had damaged the wood. They stated that they have safety concerns because the porch leaks around the electrical wiring of the porch light. They also stated that the proposed porch would be larger with four columns instead of two.

Timothy Dennée asked how would making the porch larger address their safety concerns?

Fidel Martin stated that the existing porch has two support poles and the new porch he is proposing will have four support poles. It will be more structurally sound with a brick foundation. The existing steps are facing east, but the new steps will be redirected to the front instead of on the side.

Lawrence Bleau asked if a connecting sidewalk would be built from the steps?

Fidel Martin stated no, they would keep the same sidewalk which is to the right of the house.

Lawrence Bleau asked if the porch entrance would be centered opposite the front door?

Fidel Martin stated yes.

Lawrence Bleau asked what would be the hardship if the variance was denied?

Fidel Martin stated that the porch is in poor repair, and there is roof leakage and other electrical issues.

Charles Smolka asked what are the dimensions of the existing front porch?

Elisa Vitale stated that it is 12 ½ or 13 feet.

Commissioners reviewed the criteria that need to be met before the variance can be granted and determined that:

1. The property has an extraordinary situation in that the house predates zoning and features an existing, substantially deteriorated porch that encroaches 10 feet into the required front yard setback. A variance would thus be required for any reconstructive work necessitating a building permit for the porch reconstruction, an extraordinary condition of the property.
2. The strict application of the County Zoning Ordinance will result in peculiar and unusual practical difficulties to the applicants because the applicants' existing porch presents a safety hazard due to deterioration. The applicants are proposing to reconstruct the porch to address the safety issue. Covered front porches are a permitted use in R-55 Zone. The proposed enlarged, reconstructed porch will be wider but not deeper than the existing porch. The current placement of the existing house and porch on the site exceeds the required front yard setback by 10 feet – this limits the applicants' ability to reconstruct the porch without the need for a variance.
3. Granting the requested variance will not impair the intent, purpose or integrity of any applicable County General Plan or County Master Plan because it will not change the character of the neighborhood or cause adverse impacts. Reasonably sized covered front porches are characteristic of the neighborhood and the presence of a covered porch which does not conform to current setbacks is an existing condition on the property, which predates zoning.

Timothy Dennée made a motion to approve the variance because the request meets the three criteria for granting the variances for the reasons stated above, subject to the condition that the porch be constructed the same size as the existing porch. There was no second to the motion, so the motion failed.

Lawrence Bleau moved to approve variance CPV-2009-10 because the request meets the three criteria for granting the variances for the reasons stated above. Charles Smolka seconded. Motion carried 3-1-0, with Timothy Dennée voting nay.

<b>CPV-2009-09:</b>	<b>Variance to construct a carport and validate two sheds</b>
<b><u>Applicant:</u></b>	<b>Anthony &amp; Theresa Sefcik</b>
<b><u>Location:</u></b>	<b>9603 50<sup>th</sup> Place</b>

Robert Day explained the hearing procedures and placed witnesses under oath. Elisa Vitale summarized the staff report. The applicants are requesting the following variances: a variance of 3.4% or 1,862 square feet for lot coverage; .5 feet from the combined side yard depth of 17 feet for the carport; 2 feet from the required 60-foot setback for accessory buildings for the 6-foot by 7-foot shed; .5 feet from the required 2-foot setback from the side lot line for accessory buildings for the 6-foot by 7-foot shed; and .5 feet from the required 2-foot setback from the rear lot line for accessory buildings for the 8.5-foot by 10-foot shed. The existing property is irregular in shape. The side or northern property line does not intersect the front and rear property lines at a 90-degree angle. The subject property has an area of 5,578 square feet. The front property line

measures 80.96 feet, the rear property line measures 59.29 feet, the northern property line measures 87.72 feet, and the southern property line measures 85 feet. The property is improved with a one story single-family home, driveway, carport, two freestanding sheds, a shed that abuts the home and a small rear porch. The existing home exceeds the required front yard setback by 5 feet. The lot is shallow in comparison to the majority of the other lots in the surrounding neighborhood. The subject property is approximately 60 to 80 feet deep while other properties on the block are approximately 125 feet deep giving them deeper yards and greater square footage. The surrounding neighborhood is zoned R-55, single-family residential. The home dates to 1960 and the subdivision dates to 1952. This was a resubdivision, which created a number of irregular substandard lots. The applicant indicated that he constructed the carport in 1972. There is no record of county or city building permits being issued for the carport. The applicant received a violation notice from the Department of Public Services on August 18, 2009, indicating that the applicant should apply for the appropriate permits for the carport. In the surrounding neighborhood there are a number of homes on 50<sup>th</sup> Place that have garages, but there are no other properties on the block that have carports. The applicant didn't obtain permits for the sheds. Prince George's County allows property owners to construct one shed less than 150 square feet without a permit. The applicant has three sheds on the property, which would trigger the requirement to obtain permits. The applicant indicated that he would remove two sheds to meet the front, side and rear yard setback requirements. North College Park Citizens Association Variance Committee reviewed the application and had no position. Staff recommends that the variances to validate lot coverage and the setback for the existing carport be granted. Staff recommends denial for variances associated with accessory buildings for two of the three sheds.

Elisa Vitale submitted the staff report and Exhibits 1-5 into the record. Commissioners accepted unanimously.

Anthony Sefcik, applicant, testified that he would like to amend the statement presented in the staff report indicating that the applicant would remove the sheds to meet the setback requirements. The metal shed would be very hard to move because it is imbedded in the dirt and the attached shed is too heavy to move. One shed has been on the property for 39 years and the other for 29 years and they are well maintained. The carport helps to keep the rain and bad weather off of his vehicle.

Timothy Dennée asked if he was still using the three sheds?

Anthony Sefcik stated yes, he uses all of them and they are small sheds. One is used as his workshop. He thinks the carport should be grandfathered in. He stated that within a three and a half block area, there are six carports.

Timothy Dennée asked if a building permit would have been required for a carport in 1972?

Elisa Vitale stated yes.

Timothy Dennée asked if the side yard regulation was in the ordinance as it is today?

Elisa Vitale stated yes.

Commissioners reviewed the criteria that need to be met before the variance can be granted and decided to divided the questions into three parts. Charles Smolka moved to approve the variance for lot coverage. Robert Day seconded. The motion carried 3-0-1, with Lawrence Bleau abstaining. Robert Day moved to approve the setback variance for the carport. Charles Smolka seconded. The motion carried 2-1-1, with Timothy Dennée voting nay and Lawrence Bleau abstaining. The attorney informed the Commission that the vote did not carry for lack of a majority. Lawrence Bleau then explained that he was abstaining because he is a candidate for City Council and did not want the appearance of impropriety. The attorney advised Lawrence Bleau that he should resue himself instead, which he did. There were not enough members remaining for a quorum, so the application was continued until the next meeting.

<b>CPV-2009-11:</b>	<b>Variance to permit construction of a 10.5' x 20.0' driveway partially in front of the house and to validate the existing front yard and side yard setbacks</b>
<b><u>Applicant:</u></b>	<b>Christopher Martin</b>
<b><u>Location:</u></b>	<b>5027 Muskogee Street</b>

Commissioner Lawrence Bleau also recused himself from the voting on this application. Due to lack of a quorum, this variance application was rescheduled for the next meeting.

- VI. Update on Development Activity:** There was no Update on Development Activity.
- VII. Other Business:** The 2009 Maryland Planning Commissioners Association Annual Conference will be held in Hardford County at the Ramada Inn October 29<sup>th</sup> and 30<sup>th</sup>. Please let staff know if you are interested in attending. The deadline for registration is Friday, October 23<sup>rd</sup>.
- VIII. Adjourn:** There being no further business, the meeting was adjourned at 10:25 p.m.

Minutes prepared by Theresheia Williams